

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PHILIP O'GRADY,

Plaintiff,

v.

RED ROBIN GOURMET BURGERS,
INC., *et al*,

Defendants.

Action No. 24-cv-1076 (JKS) (SDA)

WHEREAS OPINION AND ORDER

January 10, 2025

STACEY D. ADAMS, United States Magistrate Judge.

THIS MATTER having come before this Court following a status conference on January 8, 2025; and

WHEREAS, an initial pretrial scheduling order was entered on April 25, 2024. As of the date of the order, discovery requests had already been served by the parties. Responses were due within the time frame set by Court rules, namely, within 30 days of service. *See* Fed. R. Civ. P 33 and 34. This means, at the latest, responses would have been due by May 28, 2024. Despite this, as of the date of the September 20, 2024 status conference, Plaintiff still had yet to respond to outstanding discovery requests. The Court afforded him additional time and entered an Order setting a deadline of October 11, 2024 for Plaintiff to respond to discovery requests; and

WHEREAS, the September 20, 2024 Order also scheduled an IN PERSON settlement conference for January 8, 2025; and

WHEREAS, Plaintiff failed to timely serve discovery requests in compliance with the Court's Order. Accordingly, Defendants' counsel wrote the Court seeking leave to file a motion to compel on November 4, 2024 (ECF No. 16); Plaintiff did not respond to this letter; and

WHEREAS, the Court granted Defendants leave to file a motion to compel on November 7, 2024 (ECF No. 17); and

WHEREAS Defendants filed a motion to compel and for sanctions on December 5, 2024 (ECF No. 19); and

WHEREAS Plaintiff did not oppose the motion; and

WHEREAS Defendants wrote the Court on December 16, 2024 seeking to cancel the January 8, 2025 settlement conference because it could not meaningfully participate in settlement discussions without having received any discovery from Plaintiff (ECF No. 21); and

WHEREAS, the Court granted Defendants' request in part on December 19, 2024 and converted by settlement conference into an IN PERSON status conference on January 8, 2025 (ECF No. 22); and

WHEREAS, counsel for Defendants appeared for the status conference. Counsel for Plaintiff failed to appear despite proper notice (verbally on September 20, 2024, via written Order dated September 20, 2024 (ECF No. 15), and via Text Order dated December 19, 2024 (ECF No. 22); and now therefore for good cause shown:

IT IS, on this 10th day of **January, 2025**,

ORDERED that Defendants' Motion to Compel (ECF No. 19) is GRANTED; and

ORDERED that Plaintiff shall respond to Defendants' discovery requests by January 17, 2025; and

ORDERED that, if Plaintiff fails to comply with this deadline to respond, then an Order to Show Cause shall be entered as to why Plaintiff's complaint should not be dismissed for failure to comply with discovery obligations and Court Orders; and

ORDERED that Defendants' request for fees associated with the filing of the motion is GRANTED. By January 20, 2025, Defendants' counsel shall submit an affidavit of services to the

Court setting forth the fees and costs incurred to file the motion to compel and for his appearance in Court on January 8, 2025. In that submission, Defendants' counsel shall indicate whether Plaintiff served his discovery responses by January 17, 2025 in compliance with this Order; and

ORDERED that the Clerk of Court terminate the motion at ECF No. 19.

SO ORDERED.

/s/ Stacey D. Adams
STACEY D. ADAMS, U.S.M.J.

Orig: Clerk
cc: Parties
Jamel K. Semper, U.S.D.J.